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Exempt State Civil Service Position.

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Official Title and Summary Prepared by the Attorney General

EXEMPT STATE CIVIL SERVICE POSITIONS. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends Constitution to add the following positions to the list of officers and employees of the state that are exempt from civil service: the chief investment officer, the assistant chief investment officer, and principal fund managers of the Public Employees' Retirement System and the State Teachers' Retirement System. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: This constitutional amendment would have no direct fiscal impact on the state. The measure could have an indirect fiscal impact, however, if the additional flexibility granted to the two systems in selecting investment personnel affected the performance of the retirement systems' investment programs.

Final Vote Cast by the Legislature on ACA 26 (Proposition 22)

Assembly: Ayes 78
Noes 0

Senate: Ayes 38
Noes 0

Analysis by the Legislative Analyst

Background

Under the California Constitution each officer or employee of the state is a member of the civil service system unless specifically exempted from membership. Those exempt include: (1) elected officers and their appointees; (2) legislative and judicial officers and employees; (3) members of boards and commissions and their appointees; and (4) officers appointed directly by the Governor and their appointees. Personnel who manage the investment programs for the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS) are not exempted from the requirement that they be members of the civil service system.

PERS and STRS are two of the largest pension systems in the country. PERS, which covers state and many local government employees, currently has a membership (both active and retired) of about 800,000 persons and assets of approximately \$20 billion. STRS has a membership of about 400,000 persons and assets of over \$11 billion.

The Board of Administration of the PERS and the Teachers' Retirement Board of the STRS have the authority to appoint investment personnel, subject to the hiring, discipline, and other personnel rules governing state civil service employees. Currently the entire PERS investment

staff is under the state civil service system. Investment services for the STRS, however, are not currently provided by state employees, but are provided instead by the private sector.

Proposal

This measure would exempt from state civil service the following positions in both the PERS and STRS: the chief investment officer, the assistant chief investment officer, and an unspecified number of principal fund managers. These specified investment personnel would still be appointed by the PERS Board of Administration and the STRS Teachers' Retirement Board. As exempt appointees, however, they would serve at the pleasure of the respective boards, instead of being subject to civil service practices pertaining to employee selection and dismissal.

Fiscal Effect

This constitutional amendment would have no *direct* fiscal impact on the state. The measure could have an indirect fiscal impact, however, if the additional flexibility granted to the two systems in selecting investment personnel affected the performance of the retirement systems' investment programs.

Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 26 (Statutes of 1983, Resolution Chapter 107) expressly amends the Constitution by amending sections thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE VII, SECTION 4

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) *The Chief Investment Officer, the Assistant Chief Investment Officer, and principal fund managers of the Public Employees' Retirement System and the State Teachers' Retirement System.*

(n) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.

Argument in Favor of Proposition 22

Cutting government costs and protecting retirees—that's what Proposition 22 is all about.

Current law hurts California's ability to get top investment talent for the complex job of managing its pension assets. By changing this law, Proposition 22 lowers government costs and provides the greatest possible protection for retirement income.

Taxpayer savings are made more likely by adding key pension investment personnel to the civil service exemptions that already exist.

This means that when California searches for skilled investment talent everyone with sound investment cre-

dentials will be seriously considered. No longer will candidates be automatically disqualified merely because they lack prior state experience.

Proposition 22 had unanimous support in the Legislature because it guarantees the state's ability to search without hindrance for the best available investment talent. It is the only sure way to get expert investment decisions which can minimize taxpayer costs while fully protecting retirees.

Your yes vote will benefit every California taxpayer.

LOUIS J. PAPAN

Member of the Assembly, 19th District

Rebuttal to Argument in Favor of Proposition 22

Don't be fooled! Proposition 22 has nothing to do with cutting government costs and protecting retirees, and the argument in favor of Proposition 22 cites no facts in support of this bald assertion. Proposition 22 is nothing more than an attempt to politicize the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS).

The proponent argues that exempting the top investment officials of PERS and STRS from civil service would allow the most qualified individuals to be selected. If this logic is to be followed, then the entire civil service system should be eliminated and all state employment should be operated through the political spoils system. While the civil service system does not work perfectly, it is far better than having retirement funds managed by those with the best political connections regardless of qualification.

Bringing politics into the investment decisions regarding retirement funds is a risk that those depending upon those funds should not be forced to take.

The fact that politicizing PERS and STRS encountered no opposition in the Legislature is not surprising and is certainly no reason that voters should support Proposition 22. It should find considerable opposition among public employees and public school teachers as well as everyone else who believes that investment and management of public retirement funds should be handled outside of the political arena.

I urge you to protect the retirement funds of public employees and public school teachers by voting NO! on Proposition 22.

TIMOTHY D. WEINLAND

Attorney at Law

Apply early for your absentee ballot

Argument Against Proposition 22

Proposition 22 is a flagrant attempt to politicize the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS). It would jeopardize the retirement benefits of public school teachers and public employees. As such, Proposition 22 deserves to be resoundingly defeated by voters.

Proposition 22 would exempt from civil service the chief investment officer, the assistant chief investment officer, and the principal fund manager of both PERS and STRS. The State Constitution currently mandates that these officials be selected and employed through the civil service system. This constitutional requirement is for good reason. These officials are charged with investing and managing the retirement funds of public employees and public school teachers, a sacred trust. As civil servants, they are selected by merit and cannot be removed for political reasons. Those in charge of retirement funds clearly should be free of political pressures. Their only loyalty should be to the persons whose retirement funds they are managing.

Proposition 22 would eliminate the existing constitutional protections that keep the top investment and fund management officials of PERS and STRS free of political

pressures. It would allow the Legislature to determine how these officials are to be selected, and would remove merit as the criterion for selection. This would result in a very dangerous situation for everyone whose retirement benefits are dependent upon PERS or STRS. Decisions that are in the best interests of those whose retirement funds are being invested and managed are not the decisions that are the most politically expedient.

Proposition 22 would allow special interests to influence investment decisions regarding public retirement funds that benefit the special interests at the expense of the interests of those who contribute to the funds. It could subject the officials involved to accusations of misconduct in situations where there has been no impropriety. These problems will not occur if the current system is retained and the positions are not exempted from civil service.

Proposition 22 would politicize the investment and management decisions of PERS and STRS. Proposition 22 would jeopardize the retirement funds of public employees and public school teachers. Proposition 22 must be defeated. VOTE NO ON PROPOSITION 22!

TIMOTHY D. WEINLAND
Attorney at Law

Rebuttal to Argument Against Proposition 22

The opposition makes the claim that Proposition 22 will politicize the investment advisor selection process. In fact, nothing could be further from the truth. Proposition 22 does nothing to alter how these hiring decisions are made. Its *only effect* will be to let the *pension system governing boards* choose from a wider field of qualified candidates.

Both under existing law and under Proposition 22, hiring decisions for investment personnel are solely the responsibility of the board members of the pension system. It is simply not true to assert, as the opponent does, that now or under Proposition 22 the Legislature could *ever* dictate hiring decisions.

Furthermore, despite what the opponent alleges, Proposition 22 will make the personal merit of candidates—their education, training and experience—*more impor-*

tant in hiring decisions, not less. Under current law, no matter how experienced and talented investment advisors may be, they can be barred from consideration if they lack prior state experience.

Proposition 22 puts an end to this rule for these few investment posts by making merit the sole criterion for hiring decisions—not whether the candidate has previously been in public service.

Because Proposition 22 unties the hands of the pension systems when they search for top investment talent, its enactment will help taxpayers and retirees alike. I urge your "yes" vote on Proposition 22.

LOUIS J. PAPAN
Member of the Assembly, 19th District